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Attorneys for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

MEGAN WHEELER, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

VNGR BEVERAGE LLC,

Defendant.

Case No. 3:24-cv-04396-LB

**DECLARATION OF LAURENCE D. KING
IN SUPPORT OF ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED
PURSUANT TO CIVIL LOCAL RULES 3-
12 AND 7-11**

1 I, Laurence D. King, declare as follows:

2 1. I am an attorney at Kaplan Fox & Kilsheimer LLP, counsel for Plaintiff Megan Wheeler
3 (“Plaintiff Wheeler”), the above entitled action, *Wheeler v. VNGR Beverages, LLC*, Case No. 3:24-cv-
4 04396-LB (N.D. Cal.) (the “*Wheeler Action*”). I submit this Declaration in Support of Plaintiff’s
5 Administrative Motion to Consider Whether Cases Should be Related Pursuant to Civil Local Rules 3-
6 12 and 7-11. I have personal knowledge of the facts stated in this Declaration and, if called a witness, I
7 could and would testify competently to them.

8 2. The *Wheeler Action* was filed on July 19, 2024, and is currently assigned to Magistrate
9 Judge Laurel Beeler. *In re VNGR Beverage, LLC Litig.*, Case No. 4:24-cv-03229-HSG (N.D. Cal.) (“*In*
10 *re VNGR Beverage*”) originally filed on May 29, 2024, is assigned to the Honorable Haywood S.
11 Gilliam, Jr., and is the operative action.

12 3. On June 25, 2024, the Court related a lower-filed action, *Lesh, et al. v. VNGR Beverage,*
13 *LLC*, Case No. 4:24-cv-03612-HSG (the “*Lesh Action*”), to the first-filed *Cobbs v. VNGR Beverage,*
14 *LLC*, Case No. 4:24-cv-03229-HSG (the “*Cobbs Action*”) and found that the Actions were similar. Then,
15 on June 27, 2024, the Court consolidated the *Lesh Action* with the *Cobbs Action*, now known as *In re*
16 *VNGR Beverage*.

17 4. The *Wheeler Action* and *In re VNGR Beverage* involve the same Defendant and
18 substantially the same facts. *See* Civ. L.R. 3-12(a)(1). Specifically, Plaintiffs in both of the cases are
19 consumers that allege that Defendant’s Poppi prebiotic sodas are falsely advertised because the
20 prebiotics provided in a single can of soda is not enough to provide any possible improvement to gut
21 health. Plaintiffs in both the *Wheeler Action* and *In re VNGR Beverage* bring claims for violations of
22 California Business & Professions Code §§ 17500, *et seq.*, California Civil Code §§ 1750, *et seq.*,
23 California Business & Professions Code §§ 17200, *et seq.*, and a claim for unjust enrichment.
24 Furthermore, both cases are putative class actions seeking to represent substantially similar, if not
25 identical, putative classes, and seek damages and other relief. As such, each action will require
26 adjudication of substantially the same questions of law and fact.

27 5. Concurrently with the filing of this Administrative Motion, the parties in the related
28 action will be served with copies of this motion and all supporting documents filed with it.

1 I declare under penalty of perjury under the laws of the United States and the State of California
2 that the foregoing is true and correct.

3 Executed this 22nd day of July, 2024, in Oakland, California.

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5 /s/ Laurence D. King
6 Laurence D. King
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